

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

DAVID WALTER MICHEL,

Petitioner,

vs.

BRIAN E. WILLIAMS, SR., et al.,

Respondents.

Case No. 2:12-cv-00945-PMP-CWH

**ORDER**

Petitioner has paid the filing fee. Pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, the court has reviewed his petition for a writ of habeas corpus. The court will serve the petition upon respondents for a response.

Petitioner has submitted a motion for appointment of counsel (#2). Whenever the court determines that the interests of justice so require, counsel may be appointed to any financially eligible person who is seeking habeas corpus relief. 18 U.S.C. § 3006A(a)(2)(B). “[T]he district court must evaluate the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims pro se in light of the complexity of the legal issues involved.” Weygandt v. Look, 718 F.2d 952 (9th Cir. 1983). There is no constitutional right to counsel in federal habeas proceedings. McCleskey v. Zant, 499 U.S. 467, 495 (1991). The factors to consider are not separate from the underlying claims, but are intrinsically enmeshed with them. Weygandt, 718 F.2d at 954. After reviewing the petition, the court concludes that appointment of counsel is not warranted.

1 IT IS THEREFORE ORDERED that the clerk of the court shall file the petition for a writ of  
2 habeas corpus pursuant to 28 U.S.C. § 2254.

3 IT IS FURTHER ORDERED that the clerk shall add Catherine Cortez Masto, Attorney  
4 General for the State of Nevada, as counsel for respondents.

5 IT IS FURTHER ORDERED that the clerk shall electronically serve upon respondents a  
6 copy of the petition and this order. In addition, the clerk shall return to petitioner a copy of the  
7 petition.

8 IT IS FURTHER ORDERED that respondents shall have forty-five (45) days from the date  
9 on which the petition was served to answer or otherwise respond to the petition. If respondents file  
10 and serve an answer, then they shall comply with Rule 5 of the Rules Governing Section 2254 Cases  
11 in the United States District Courts, and then petitioner shall have forty-five (45) days from the date  
12 on which the answer is served to file a reply.

13 IT IS FURTHER ORDERED that any exhibits filed by the parties shall be filed with a  
14 separate index of exhibits identifying the exhibits by number or letter. The CM/ECF attachments  
15 that are filed further shall be identified by the number or numbers (or letter or letters) of the exhibits  
16 in the attachment. The hard copy of any additional state court record exhibits shall be  
17 forwarded—for this case—to the staff attorneys in Las Vegas.

18 IT IS FURTHER ORDERED that henceforth, petitioner shall serve upon respondents or, if  
19 appearance has been entered by counsel, upon the attorney(s), a copy of every pleading, motion or  
20 other document submitted for consideration by the court. Petitioner shall include with the original  
21 paper submitted for filing a certificate stating the date that a true and correct copy of the document  
22 was mailed to the respondents or counsel for the respondents. The court may disregard any paper  
23 received by a district judge or magistrate judge that has not been filed with the clerk, and any paper  
24 received by a district judge, magistrate judge, or the clerk that fails to include a certificate of service.

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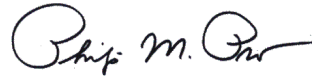
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1 IT IS FURTHER ORDERED that the motion for appointment of counsel (#2) is **DENIED**.

2 DATED: December 19, 2012.

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5 PHILIP M. PRO  
6 United States District Judge  
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